UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/749,769	BUDZISCH ET AL.
		Examiner	Art Unit
		Henry Orr	2176

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *7/9/2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date *7/9/2007*.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20070823

DETAILED ACTION

1.   This action is responsive to applicant's amendment dated 7/9/2007.

2.   Claims 1-30 are pending in the case.

3.   Claims 31-49 are cancelled.

4.   Claims 1, 11 and 21 are independent claims.

Applicant's Response

In Applicant's response dated 7/9/2007, applicant has amended the following:

a) Specification

b) Claims 3, 5, 6, 10, 13, 15, 16, 20, 23, 25, 26 and 30

Based on Applicant's amendments and remarks, the following objections and

rejections previously set forth in Office Action dated 3/5/2007 are withdrawn:

a) Objection to Specification

b) Objection to claims 5-8,15-18 and 25-28

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/9/2007 is in

compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is

considering the information disclosure statement.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 11 and 21:

Claims 1, 11 and 21 recite the pronoun **"its"**, which renders the claim as indefinite because what is being referred to as **"its"** is not set forth in the claim.

Claims 2-10, 12-20 and 22-30:

Dependent claims 2-10, 12-20 and 22-30 are rejected for fully incorporating the deficiencies of their respective base claims.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. **Claims 1, 4, 5, 10, 11, 14, 15, 20, 21, 24, 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naganathan, U.S. Published Application No. 2004/0139194, in view of Novaes, U.S. Patent No. 6,735,200 B1.**

Claim 1:

Naganathan teaches *"The consoles provide graphics visual representations of managed objects (for example, hosts and networks) to users of the network management system 200"* (par. 32). *"The managed objects are objects are arranged in a tree, showing a hierarchical relationship of the components. Within the MIB, managed objects are logically grouped into management modules that collectively implement management functions"* (see par. 37). **(claim 1; i.e., displaying a tree on a graphical user interface, said tree comprising: a first node that identifies a testing scenario one or more sub nodes of said first node, each of said one or more sub nodes identifying a different software component of a business logic process)**

Examiner interprets the managed objects to be capable of representing a graphical hierarchical tree of applications or computing resources that also can display a lower hierarchy level of software components because the managed objects can be managed application software within an enterprise (par. 002). Examiner also interprets the managed object to be a testing scenario because the managed object is an application or network resource tested or monitored to determine the availability status.

Naganathan teaches *"allows users to monitor network resources to determine the status of the resources and when the resources are unavailable, the reason for the unavailability"* (see par. 12). **(claim 1; each of said one or more sub nodes capable of spawning its own sub node that indicates its corresponding software component is unavailable when its corresponding software component is unavailable.)** Examiner interprets the network resources as including software

components.

Naganathan teaches displaying managed objects (i.e., application software

component nodes) as a tree on a graphical user interface.

Naganathan does not expressly teach the sub nodes of the tree as identifying

software component availability.

However, Novaes teaches **"monitoring mechanism which informs every**

node in a network of the availability status of any other node in the network" (col.

3 lines 17-20).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the displayed tree of managed objects (i.e., application

software component nodes) as taught by Naganathan to include an indication of the

availability status of any node (i.e., parent nodes, sub nodes) as taught by Novaes to

provide the benefit of allowing users to monitor the availability of network service

resources (see Naganathan; par. 30).

Claim 4:

Naganathan does not expressly teach nodes presenting text messages.

However, Novaes teaches *"The node in the subnetwork multicast a verification*

message over the subnetwork in which it is attached" (see col. 4 lines 43-46). **(claim 4;**

i.e., wherein said each of said one or more sub nodes is capable of spawning a

second sub node for presenting text messages.) Examiner interprets the multicast

or "presented" verification message by the node to include a short status datagram

message called a heartbeat that indicates the status of a node. Examiner also interprets the content of the datagram to be in text form.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application software component nodes) as taught by Naganathan to include nodes that present heartbeat datagram messages in text form as taught by Novaes to provide the benefit of communicating to the users the availability status of network resources (Naganathan; par. 12) (Novaes; col. 4 lines 9-25).

Claim 5:

Naganathan does not expressly teach presenting text messages that was sent over a network.

However, Novaes teaches *"Heartbeat—the verification messages sent in a communication network, or in a distributed computing system to determine operational status of hardware at one or more nodes"* (col. 6 lines 31-34). **(claim 5; i.e., wherein the information presented by at least one of said text messages was provided in a message that was sent over a network within an IS infrastructure and from a location where said one or more software components were tested for availability.)** Examiner interprets the "heartbeat" to be a datagram in text form corresponding to the status of resource provided in a verification message. Examiner also interprets the communication network to be capable of functioning as a network within an Information System infrastructure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application software component nodes) as taught by Naganathan to include nodes at the sub node position that presents heartbeat datagram messages in text form sent over a network as taught by Novaes from the network resources (i.e., application software components) tested for availability as taught by Naganathan to provide the benefit of allowing users to monitor the availability of network resources. (Naganathan; par. 12) (Novaes; col. 4 lines 9-25, col. 16 lines 5-25)

Claim 10:

Naganathan teaches *"managed objects are arranged in a tree, showing a hierarchical relationship of the components"* (see par. 37). **(claim 10; i.e., wherein said second tree is a sub tree of a larger presented tree.)** Examiner interprets that the hierarchical tree of a managed object is capable of having a second tree that is a sub tree because each managed object represent a component and the components can be display a hierarchical relationship. Therefore, multiple managed object trees arranged in a hierarchical relationship represent a model of the network system (par. 37).

Claims 11, 14, 15 and 20:

Claims 11, 14, 15 and 20 include a program embodied on a computer readable medium to implement the steps that are substantially encompassed in method claims 1,

4, 5 and 10 respectively; therefore the claims are rejected under the same rationale as method claims 1, 4, 5 and 10 above.

Claims 21, 24, 25 and 30:

Claims 21, 24, 25 and 30 are system claims and are substantially encompassed in method claims 1, 4, 5 and 10 respectively; therefore the system claims are rejected under the same rationale as method claims 1, 4, 5 and 10 above.

12.   Claims 2, 3, 12, 13, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naganathan, in view of Novaes as cited above, in further view of Luzzi et al. (hereinafter "Luzzi"), U.S. Patent No. 6,141,699.

Claims 2 and 3:

Neither Naganathan nor Novaes expressly teach availability as a percentage over a fixed time interval.

However, Luzzi teaches *"The table comprises columns representing availability percentages for the day"* (see col. 22 lines 2-5). **(claim 2; i.e., wherein said own sub node indicates availability as a percentage.) (claim 3; i.e., wherein said percentage is calculated over a fixed time interval.)** Examiner interprets Luzzi's Table 900 to illustrate percentages calculated over a fixed time interval such as over a day, month or fixed time interval of increasing granularity (col. 19 lines 54-66).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the displayed tree of managed objects (i.e., application

software component nodes) as taught by Naganathan to include an indication of the

availability status of any node as taught by Novaes and to represent the availability as a

percentage over a fixed time interval as taught by Luzzi to provide the benefit of

allowing users to easily measure and monitor the availability of network services (see

Naganathan; par. 12).

Claims 12 and 13:

Claims 12 and 13 include a program embodied on a computer readable medium

to implement the steps that are substantially encompassed in method claims 2 and 3

respectively; therefore the claims are rejected under the same rationale as method

claims 2 and 3 above.

Claims 22 and 23:

Claims 22 and 23 are system claims and are substantially encompassed in

method claims 2 and 3 respectively; therefore the system claims are rejected under the

same rationale as method claims 2 and 3 above.

13.   Claims 6-8, 16-18 and 26-28 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Naganathan, in view of Novaes as cited above, in further view

of Oliver et al. (hereinafter "Oliver"), U.S. Published Application No. 2003/0225876.

Claim 6:

Neither Naganathan nor Novaes teach a message comprising of an xml

document.

However, Oliver teaches *"In step 715, the performance metrics are translated according to a schema prior to transmission over the performance message queue. The translation may be made according to any convenient schema. According to one embodiment of the present invention, the translation is made into an XML format. Subsequently in step 720, the polling agent publishes the performance metrics as XML messages over the performance queue. The performance messages are read by the performance monitor and the archive 205 which stores the performance metric data in an archival format as previously described" (see par. 53).* **(claim 6; i.e., wherein said message further comprised an .XML document.)** Examiner interprets the performance message to be compatible with a XML document because the performance metrics inside the performance message are translated into XML format.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application software component nodes) as taught by Naganathan to include nodes that presents heartbeat datagram messages in text form provided by a verification message as taught by Novaes in which the verification message is modified to include performance metrics translated in XML format as to be inherently compatible with a XML document as taught by Oliver to provide the benefit of having a known format and structure that easily permits the extraction of network element identifiers and associated performance metrics to be periodically published over a network message queue to users monitoring and measuring the availability of network resources (Naganathan; par. 12) (Novaes; col.

4 lines 9-25, col. 16 lines 5-25) (Oliver; par. 7, par. 24).

Claim 7:

Neither Naganathan nor Novaes expressly teach a text message that indicates a software component as unavailable.

However, Oliver *teaches "messages may be in the form of textual warnings"* (see par. 39). **(claim 7; i.e., wherein said message further included an indication that the particular software component to which said text message is presented in reference to is unavailable.)**

Therefore in the same analogous art of determining network resource availability, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application software component nodes) as taught by Naganathan to include nodes at the sub node position that presents heartbeat datagram messages in text form provided by a verification message as taught by Novaes and to customized verification message to include textual warnings about the availability of an network element to provide the benefit of allowing users to monitor the availability of network resources. (Naganathan; par. 12) (Novaes; col. 4 lines 9-25, col. 16 lines 5-25)

Claim 8:

Neither Naganathan nor Novaes expressly teach a text message presented in the color red.

However, Oliver Figure 9 illustrates a color menu palette that can be used by the user to select any color including red to customize the color of a text message that is generated by a shell script. **(claim 8; i.e., wherein said text message is presented in the color red.)**

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application software component nodes) as taught by Naganathan to include nodes at the sub node position that presents heartbeat datagram messages in text form provided by a verification message as taught by Novaes and to customized verification message to include textual warnings in the color red using the color menu palette as taught by Oliver to provide the benefit of allowing users to easily monitor and distinguish the availability status of network resources (Naganathan; par. 12) (Novaes; col. 4 lines 9-25, col. 16 lines 5-25) (Oliver; par. 5).

Claims 16, 17 and 18:

Claims 16, 17 and 18 include a program embodied on a computer readable medium to implement the steps that are substantially encompassed in method claims 6, 7 and 8 respectively; therefore the claims are rejected under the same rationale as method claims 6, 7 and 8 above.

Claims 26, 27 and 28:

Claims 26, 27 and 28 are system claims and are substantially encompassed in method claims 6, 7 and 8 respectively; therefore the system claims are rejected under the same rationale as method claims 6, 7 and 8 above.

14.   Claims 9, 19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naganathan, in view of Novaes as cited above, in further view of Walker et al. (hereinafter "Walker"), U.S. Patent No. 6,061,723.

Claim 9:

Naganathan teaches the capability of presenting a second tree by creating additional managed objects that display the hierarchical relationships (par. 37).

Neither Naganathan nor Novaes teach presenting a second tree that indicates another testing scenario not working.

However, Walker teaches *"Root cause failures and inaccessible interfaces on critical server nodes are displayed in red to indicate Down status"* (col. 16 lines 15-28). Examiner interprets the root cause failure to be a primary failure that indicates a network element (i.e, an application or "testing scenario") as not working instead of just being inaccessible or unavailable. **(claim 9; i.e., further comprising presenting a second tree, said second tree indicating that another testing scenario is not working.)**

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application

software component nodes) as taught by Naganathan to include an indication of the

availability status of any node as taught by Novaes and to create a second tree of

managed objects that include root cause failure nodes that indicate network resources

as not working as taught by Walker to provide the benefit of distinguishing between

broken and inaccessible network elements (Naganathan; par. 12) (Novaes; col. 3 lines

17-20) (Walker; col. 3 lines 23-25).

Claim 19:

Claim 19 includes a program embodied on a computer readable medium to

implement the steps that are substantially encompassed in method claim 9; therefore

the claim is rejected under the same rationale as method claim 9 above.

Claim 29:

Claim 29 is a system claim and is substantially encompassed in method claim 9;

therefore the system claim is rejected under the same rationale as method claim 9

above.

Response to Arguments

15.   Applicant's arguments filed 7/9/2007 have been fully considered but they are not

persuasive.

35 U.S.C. 103 Rejections

In respect to independent claims 1, 11 and 21, Applicant argues neither

Naganathan nor Novaes discloses the limitations of the claims which recite (emphasis

added): "displaying **a tree on a graphical user interface**, said tree comprising:

a) a first node that identifies **a testing scenario**;

b) one or more sub nodes of said first node, each of said one or more sub nodes

identifying a different software component of a business logic process, each of **said one**

or more sub nodes capable of spawning its own sub node that indicates its

corresponding software component is unavailable when its corresponding

software component is unavailable.

Similarly, the "tree" of paragraph 0037 (cited in Naganathan) is not in reference

to a GUI, but rather, the structure of a Management Information Base (MIB). Thus, the

"tree" of paragraph [0037] is akin to the structure of a database and is not a reference to

a GUI. See Response Pages 14-15.

Examiner disagrees.

In response to displaying **a tree on a graphical user interface**, Naganathan

teaches a console which functions as a graphical user interface because the user is

able to manipulate data attributes of the graphics visual representations of managed

objects (see par. 32). The managed objects area arranged in a tree, showing a

hierarchical relationship of the components (see par. 37).

For the sake of argument, even if the "tree" is akin to the structure of a database. Naganathan's console is still able to display managed objects (see par. 32). The displayed managed objects are a representation of the "tree" structure of a database. Therefore, when the managed objects are retrieved from the database and displayed on the console, the "tree" structure is represented and displayed on the console. Thus, Naganathan anticipates the limitation "displaying **a tree on a graphical user interface**".

In response to a first node that identifies **a testing scenario,** Naganathan teaches a managed object ("node") is an application or network resource that is monitored determine the availability status (see par. 7, par 9, par. 12). The managed object is a testing scenario because the user is allowed to regularly check or test the managed object to determine the availability status. Thus, Naganathan anticipates the limitation "a first node that identifies **a testing scenario**".

In response to the limitation b) of the independepent claims, Naganathan does not expressly teach the sub nodes of the tree as identifying software component availability.

However, Novaes teaches *"monitoring mechanism which informs every node in a network of the availability status of any other node in the network" (see col. 3 lines 17-20).*

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the displayed tree of managed objects (i.e., application

software component nodes) as taught by Naganathan to include an indication of the

availability status of any node (i.e., parent nodes, sub nodes) as taught by Novaes to

provide the benefit of allowing users to monitor the availability of network service

resources (see Naganathan; par. 30).

Conclusion

16.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Henry Orr whose telephone number is (571) 270 1308.

The examiner can normally be reached on Monday thru Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Doug Hutton can be reached on (571) 272-4137. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

8/23/2007
HO

/William L. Bashore/
Primary Examiner
Tech Center 2100